



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/764,182

01/23/2004

Daniel Sundman

004410.P010

7850

7590

08/26/2008

Marina Portnova

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Seventh Floor

12400 Wilshire Boulevard

Los Angeles, CA 90025

EXAMINER

NGUYEN, CAM LINH T

ART UNIT

PAPER NUMBER

2161

MAIL DATE

DELIVERY MODE

08/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,182

Applicant(s)

SUNDMAN ET AL.

Examiner

CAM-LINH NGUYEN

Art Unit

2161

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-18, 20, 23-26, 28, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 8-16 is/are allowed.
- 6) ☒ Claim(s) 17-18, 20, 23-26, 28, 30-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is response to amendment filed on 07/08/2008.
2. Applicant's amendments to claims 1 – 32 are acknowledged. Consequently, claims 7, 19, 21, 22, 27, 29, and 32 have been cancelled. Claims 1 – 6, 8 – 18, 20, 23 – 26, 28, 30 – 31 are currently pending for further processing.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 17 – 18, 20, 23 – 26, 28, 30 – 31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 17 is directed a system comprising a query engine and a data chart engine to perform a certain functions. However, Applicant fails to define the type of the engines. These engines can be software modules, and thus lack of a computer readable medium to carry out the functions. Therefore, claim 17 is nonstatutory under 35 U.S.C. 101.

Claim 25 is directed an apparatus comprising plurality of means. Claim 30 is directed to a computer readable medium comprising executable instructions. However, in the disclosure, Applicant defined the computer readable medium as “electrical, acoustical or other form of propagated signals (carrier waves)” [paragraph 0025, also can be found in paragraph 00111]. Therefore, claims 25 and 30 are not tangible and thus nonstatutory.

Allowable Subject Matter

5. Claims 1 – 6, 8 – 16 are allowed.

Response to Arguments

6. Applicant's arguments filed 07/08/08 regarding 101 rejections have been fully considered but they are not persuasive.

Applicant amends claims 17 – 18, 20, 23 - 26, 28 and 30 - 31 but did not overcome the 101 rejection with the same reason as indicated in the previous office action. Therefore, claims 17 – 18, 20, 23 - 26, 28 and 30 – 31 still are rejected under 35 USC 101 as nonstatutory subject matter.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAM-LINH NGUYEN whose telephone number is (571) 272 - 4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272 - 4080. The fax phone number for the organization where this application or proceeding is assigned is 571 - 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/CamLinh Nguyen/
Primary Examiner, Art Unit 2161